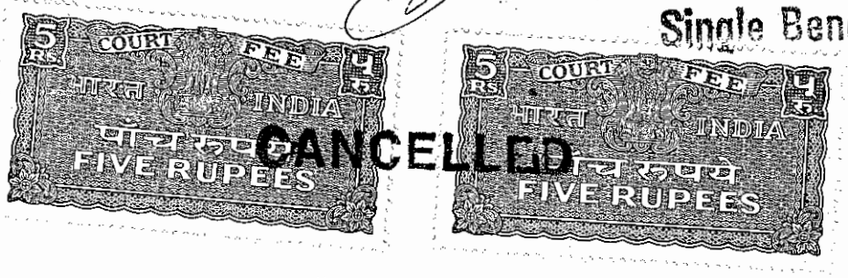
Single Bench



IN THE HIGH COURT OF JUDICATURE AT BILASPUR,

CHHATTISGARH

WRIT PETITION NO. 897 OF 2005

PETITIONER/ :
DEFENDANT NO.1

Lalchand Agrawal, S/o Late Shri Ramgopal Agrawal, Aged about 61 years, Occupation : Business, R/o Behind Gandhi Ganj, Raigarh (Chhattisgarh).

P.R. No. 888
Presented by Shri S.R. Jain
dated 24/03/05

Versus

RESPONDENT :
PLAINTIFF

1. Yashwant Sanwariya, S/o Nanhelal, R/o Gandhi Ganj, Raigarh (C.G.).

RESPONDENT :
DEFENDANT NO.2

2. V.K. Shrivastava, Divisional Engineer, M.P. Electricity Board, Near Gopi Talkies, Raigarh (C.G.).

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

XI-HC-22

(32)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 897/05 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
दिनां	**14.3.2005** Shri H.S. Patel, counsel for the petitioner. Heard on admission. The petitioner has preferred this writ petition being aggrieved by order dated 08.3.1999 (Annexure P-1) passed by learned Civil Judge Class-1, Raigarh thereby rejecting the application of the petitioner herein filed under Order 6 Rule 17 of Code of Civil Procedure for amendment in written statement. Brief facts leading to filing of this petition are that respondent No.1 herein filed a civil suit for eviction and arrears of rent against the petitioner & respondent No.2 herein claiming the petitioner herein as tenant in the disputed premises. The petitioner herein filed a written statement in which he specifically denied the tenancy of respondent No.1. In paragraphs 17 to 19 the petitioner herein raised a specific plea that one V.K. Agarwal is tenant in the disputed premises. This written statement was filed on 4.4.1998, whereas amendment application was filed on 9.10.1998 and by this application the petitioner herein simply wanted to insert a plea that Smt. Bhagirathi and others issued a notice to V.K. Agarwal's firm for payment of rent for the period 1.11.1991 to 31.10.1994. Learned trial Court has rejected the amendment application on the ground that amendment which the petitioner wants to insert by way of amendment application has already taken by him in Paragraph 17 to 19 of his written statement, therefore, this amendment is not necessary in order to decide the real controversy between the parties.	

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	-2-	

Having heard learned counsel for the petitioner, I have perused the record.

Perusal of Paragraph Nos.17, 18 & 19 of written statement shows that the petitioner herein has denied the tenancy and further specifically mentioned that V.K. Agarwal is tenant of respondent No.1 herein. By the amendment application the petitioner only wanted to insert that Smt. Bhagirathi issued notice to V.K. Agarwal to pay the rent and for that purpose trial court has already allowed the application of petitioner filed under Order 13 Rule 2 of CPC for taking documents on record. Therefore, it is a matter of evidence and this amendment is not necessary for decision of the controversy between the parties and moreover, the defence raised in the amendment application has already taken by the petitioner herein.

In view of the above, I am of the opinion that learned counsel for the petitioner has not been able to point out any illegality or infirmity in the impugned for interference of this Court. Therefore, the petition is liable to be dismissed and it is accordingly dismissed at the admission stage itself.

Consequently, M.(W.)P. No.719/05 & I.A. No.1763/05 stands disposed of.

Sd/-
L.C.Bhadoo
Judge

(पीछे देखिये)